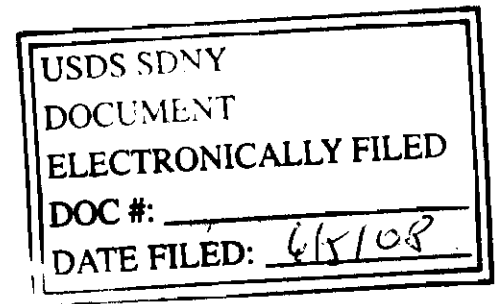


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JODY CONCEPCION,
Plaintiff,

-v-

CITY OF NEW YORK, *et al.*,
Defendants.



No. 05 Civ. 8501 (RJS)
ORDER

RICHARD J. SULLIVAN, District Judge:

By Memorandum and Order dated May 7, 2008, this Court dismissed plaintiff's conspiracy claim under 42 U.S.C. § 1983 without prejudice, denied plaintiff's cross-motion for leave to amend the complaint, and accorded plaintiff one week to submit a letter "regarding her intention to file a second motion for leave to amend the complaint." (May 7, 2008 Order 12.) By letter dated May 12, 2008, plaintiff sought "permission for an extension of time to file a second motion for leave to amend the complaint" (Pl.'s May 12, 2008 Ltr.) Specifically, plaintiff sought an extension on the ground that, in order to prepare the proposed amended complaint, plaintiff wished to "await" the deposition of a police official and have time to "review the additional evidence" adduced during discovery since the filing of the complaint in this action. (*Id.*) Plaintiff did not request a specific amount of time.

By letter dated May 21, 2008, defendants asserted, *inter alia*, that any amendments would be futile, that Judge Karas previously set a deadline of February 15, 2006 for any amendments to the complaint, and that plaintiff's counsel had previously indicated that she would not seek leave to file additional amendments. (*See* Defs.' May 21, 2008 Ltr. at 2.) Therefore, defendants asked the Court

to deny plaintiff's request for an extension of time to file a motion for leave to amend. (*See id.* at 2-3.) Thereafter, the parties have submitted additional letters to the Court addressing plaintiff's ability to seek leave to amend at a later date as well as the merits of such a motion.

However, notwithstanding the parties' dispute as to the potential merits of a *future* motion for leave to amend the complaint, at this time, the issue is not ripe for resolution by this Court. Rather, the Court merely observes that plaintiff, as with any litigant appearing before this Court, may *seek* leave, pursuant to Rule 15(c) of Federal Rules of Civil Procedure, to amend the complaint at any time she so desires. In the event that plaintiff makes such an application, defendants may, of course, oppose that request. Until that time, the Court declines to opine on the merits of such an application.

SO ORDERED.

DATED: New York, New York
June 4, 2008


RICHARD J. SULLIVAN
UNITED STATES DISTRICT JUDGE